

EXHIBIT D



NATURAL RESOURCES DEFENSE COUNCIL

July 11, 2006

By Facsimile and Overnight Delivery

Margaret P. Grafield

Director, Office of Information Resources Management
Programs and Services, SA-2, 5th Floor
United States Department of State
Fax: (202) 261-8579

Re: Request for information regarding logging and/or trade of bigleaf mahogany from Peru under CITES Appendix II

Dear Ms. Grafield:

On behalf of the Natural Resources Defense Council (“NRDC”), I write to request the disclosure of records pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* (“FOIA”), and the pertinent U.S. Department of State (“DOS”) regulations, 22 C.F.R. Part 171 Subparts A thru H.

The term “records” is used throughout this letter to mean anything denoted by the use of that word, or its singular form, in the context of FOIA.¹ The term includes, but is not limited to, anything meeting the definition of “record” at 22 C.F.R. § 171.10(b).

I am requesting the following records, prepared, authorized, stored or received:

- 1) Any cable, communication or other record sent on or around April 19, 2006 from the United States Embassy in Peru relating to the logging and/or trade of bigleaf mahogany (*Swietenia macrophylla*) from Peru.
- 2) Any records prepared after March 10, 2006 relating to the logging and/or trade of bigleaf mahogany (*Swietenia macrophylla*) from Peru.
- 3) Any other records created after November 15, 2003 relating to the logging and/or trade of bigleaf mahogany (*Swietenia macrophylla*) from Peru.

¹ Included in the term “records” shall be all writings (handwritten, typed, electronic or otherwise produced, reproduced or stored) in the possession of the Department of State, including, but not limited to, any correspondence, minutes of meetings, memoranda, notes, e-mails, calendar or daily entries, visitor logs, telephone logs, meeting agendas, notices and telefaxes. The request includes, but is not limited to records prepared or created by State Department personnel, including without limitation, personnel or consultants working in or for the U.S. Embassy in Peru or for the State Department in Washington, D.C., as well as submissions from corporations, foreign governments, international organizations, and non-governmental entities.

Please produce these records on a rolling basis, with highest priority given to the most recent records (from March 10, 2006 onward); at no point, however, should the Department's search for—or deliberations concerning—certain records pertaining to this request delay the production of others that the Department has already retrieved and elected to produce.

I appreciate your help in obtaining this information. Additional elements of this request are included in an Appendix to this letter.

Please send the requested records to S. Jacob Scherr, Senior Attorney, Natural Resources Defense Council, 1200 New York Ave., NW, Suite 400, Washington, DC, 20005. If you need further information please feel free to contact me by phone at (202) 289-2367 in order to speed consideration of this matter.

Sincerely,



S. Jacob Scherr
Senior Attorney
Director, International Program

NRDC FOIA Request to the Department of State

Appendix: Supplemental and Supportive Materials

FOIA EXEMPTION

Should you decide to invoke a FOIA exemption, please include in your full or partial denial letter sufficient information for us to appeal the denial. Specifically, this information must include, *inter alia*:

- 1) Basic, factual material about each withheld item, including the originator, date, length, general subject matter, and location of each item;
- 2) Explanations and justifications for denial, including the identification of the category within the governing statutory provision under which the document (or portion thereof) was withheld and a full explanation of how each exemption fits the withheld material.

REQUEST FOR A FEE WAIVER

NRDC requests a fee waiver for these records. FOIA dictates that requested records be provided without charge “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the records requested here would meet these two requirements and therefore is entitled to a fee waiver as set forth in regulations 22 C.F.R. § 171.15(a).

A. First Requirement

Disclosure of the records requested above would be “likely to contribute significantly to public understanding of the operations and activities of the government.” *Id.* The records in question pertain to U.S. foreign policy, specifically the role of the State Department in policies regarding international natural resource use, trade in endangered species, and activities that could affect globally significant ecosystems and vulnerable indigenous peoples. In particular, trade and logging of bigleaf mahogany is an area of concern identified by former Secretary of State Colin Powell as part of the President’s Initiative Against Illegal Logging². Extraction of bigleaf mahogany in Peru impacts ecosystems of importance both regionally and at an international level. Bigleaf mahogany is covered under the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES) to which the United States is a party. The environmental and social impacts of mahogany extraction in the rainforests of Peru is a matter of general public concern. *See, e.g.*, Attachment 1. Examination of the requested records would contribute to public understanding of U.S. Department of State activities in

² Remarks on the Launch of President Bush’s Initiative Against Illegal Logging. July 28, 2003. See <http://www.state.gov/secretary/former/powell/remarks/2003/22845.htm>

developing policies on illegal logging, trade in endangered species, natural resource extraction, and the potential impacts of these activities on globally significant ecosystems and vulnerable indigenous peoples.

As an environmental organization that has spent over thirty years promoting the public interest through the development of wise federal environmental policies, NRDC routinely receives fee waivers under FOIA. This is in large part because the organization has repeatedly proven its ability to disseminate the information it obtains through FOIA to large segments of the public. If the information we seek proves to be of sufficient value, newsworthiness or otherwise of public interest to warrant public dissemination, we could foresee disseminating relevant portions of the information more broadly through the public communication methods at our disposal. These methods include:

- NRDC's Web site (www.nrdc.org and more specifically, <http://www.savebiogems.org/tahuamanu>), which receives approximately 2.5 million page views and approximately 700,000 visits each month;
- email alerts, which NRDC sends to approximately 550,000 individuals several times each month (a selection of current alerts is available at www.nrdcaction.org/action/default.asp);
- Earth Action email alerts, which NRDC sends to approximately 165,000 subscribers twice each month;
- NRDC's Nature's Voice publication, which NRDC mails five times each year to approximately 600,000 NRDC members;
- NRDC's OnEarth magazine, which NRDC mails four times each year to approximately 150,000 subscribers, distributes for sale at newsstands and bookstores, and additionally posts on its Web site for downloading free-of-charge (www.nrdc.org/onearth/05fal/default.asp);
- newspaper, magazine, and trade-press articles, and radio and television news reports, in which NRDC staff members are quoted – and in which information obtained from NRDC is conveyed – several times each week;

See, e.g., Attachments 2,3, and 4 for a few of the many examples of NRDC's successful use of the channels listed above to disseminate widely its summaries and explanations of federal government records that NRDC has obtained through FOIA.

B. Second Requirement

Disclosure of the records requested here would also satisfy the second fee waiver requirement because NRDC does not have "a commercial interest that would be furthered by the requested disclosure" 22 C.F.R. § 171.15 (a)(2). NRDC is a not-for-profit

organization and, as such, has no commercial interest. Moreover, NRDC does not intend to sell any information contained in the records it receives pursuant to this request. Rather, it plans to disseminate the information at the organization's expense.

Because disclosure of the records described above would meet the requirements set forth in 5 U.S.C. § 552(a)(4)(A)(iii), and 22 C.F.R. § 171.15(a), NRDC respectfully requests that the U.S. Department of State waive search and production fees.

Please provide the requested records irrespective of the status and outcome of your evaluation of NRDC's fee-waiver request. To prevent delay in the provision of the requested records, NRDC hereby states that it will, if necessary and under protest, pay fees in accordance with 22 C.F.R. § 171 Subparts A & B. Please consult with me, however, before undertaking any action that would cause the fee to exceed two hundred and fifty dollars. No payment made under protest will constitute any waiver of NRDC's right to seek administrative or judicial review of any denial of its fee-waiver request. NRDC reserves the right to appeal any refusal to waive such fees as provided under 22 C.F.R. §171.15(c).

TIMELY RESPONSE

Please produce the records described above on a rolling basis; at no point should the Department's search for—or deliberations concerning—any records requested here delay the production of others that the agency has already retrieved and elected to produce. I look forward to your response within twenty days, as required by the FOIA, 5 U.S.C. § 552(a)(6)(A)(i) and DOS regulations at 22 C.F.R. § 171.12(a).

A Swirl of Foreboding in Mahogany's Grain



Ana Cecilia Gonzales-Vigil for The New York Times

Antonio Urquiza steered a raft made from illegally logged mahogany and Spanish cedar this summer on Los Amigos River in southeastern Peru.

By JUAN FORERO

Published: September 28, 2003

N LOS AMIGOS RIVER, Peru — After a month in the Amazon, feeding on spider monkeys and wild pigs, tormented by infected feet and mosquitoes, José Valderrama was about to see his efforts pay off. He and his partners had ventured into the deepest reaches of Peru's rain forest, a region off limits to loggers. Under the jungle canopy, with parrots squawking nearby, they felled one mahogany tree after another, majestic giants that take 75 years to mature.

With the wood sawed into planks and lashed into a makeshift raft, Mr. Valderrama, 27, stood barefoot atop a cargo that would fetch \$6,000 once he navigated it downriver, but be worth \$300,000 by the end of its journey, most likely as furniture, home fixtures or high-grade paneling in the United States.

"I do not know who will exactly end up with it," he said.

Mr. Valderrama's voyage is but the first stage of a murky multimillion-dollar trade that government officials and environmental groups say is whittling away the Amazon, endangering isolated indigenous groups and threatening the commercial future of an ever-scarce tree.

Environmentalists' greatest fear is that the presence of loggers here, deep in the jungle on the edge of an Indian reserve, could presage the arrival of settlers, who would bring the kind of slash-and-burn agriculture that already consumes a swath of the Amazon the size of Maryland each year.

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The mahogany trade remains legal within stringent international rules. With a recent crackdown on illegal logging in Brazil, for years the world's mahogany king, Peru is in the midst of a decade-long boom, and is now the largest producer.

Last year, government figures show, Peru exported 45,000 cubic meters of the wood to American ports — 20 times the total in 1992. The equivalent of 50,000 trees has wound up in the United States, according to one estimate by the World Wildlife Fund.

Conservation groups and even some government officials say that as much as 90 percent of that mahogany is logged illegally, like Mr. Valderrama's.

Such timber moves through a chain of corrupt officials and exporters who buy or forge documents, through customs agents, importers and lumber yards who cannot be certain of the wood's origin, and finally into American homes.

Peru is taking new steps to combat the trade, having passed a modern forest management law, and by November it must also meet new United Nations guidelines to ensure that all mahogany has been extracted legally. But some environmentalists and government officials question whether the government has the resources to enforce the law fully or to apply the United Nations rules.

Much of the blame for the corruption has been placed with the Peruvian agency that regulates flora and fauna, the National Institute for Natural Resources, or Inrena.

"All of the wood, to get out, needs authorization from Inrena," said Fabiola Muñoz, chief government adviser on illegal logging. "And if you know the wood going out of the country is illegally obtained, it means that someone from Inrena is papering over."

Treasured for its exquisite color, workability and durability, mahogany from the tropical Americas has been traded for nearly 500 years. That history of demand has already made Caribbean mahogany too scarce to log.

Now it is the mahogany found in the Amazon — Big Leaf Mahogany, *Swietenia macrophylla* — that is readily sought. It is so valuable that one tree, once crafted, can be worth more than \$100,000.

A recent report by Traffic, the wildlife trade monitoring program of the World Wildlife Fund, reads like a high-end catalog to satisfy the tastes of America's wealthiest homes.

Mahogany from Peru, it said, was used to craft the \$9,241 writing desk offered by the Kittenger Company, a 137-year-old manufacturer in Buffalo. It made the \$13,515 entertainment system sold by Henkel Harris. It was used to make \$3,700 acoustic guitars, the decks of suburban homes, even coffins.

Interviews with company representatives made clear that the origin of the mahogany was rarely raised, either by manufacturers or customers. Many furniture makers and retailers said they simply did not know where their mahogany came from.

"We purchase our lumber through a distributor," David Hamm, production manager at the furniture maker Kittenger, said by phone from Buffalo. "We just place an order and it's shipped to us."

A Swirl of Foreboding in Mahogany's Grain



Ana Cecilia Gonzales-Vigil for The New York Times

Antonio Urquiza steered a raft made from illegally logged mahogany and Spanish cedar this summer on Los Amigos River in southeastern Peru.

(Page 2 of 2)

At its origins, here in Madre de Dios State, in southeast Peru, the tree is valued as a banner species, as magnificent in the world of botany as the panda is in the animal kingdom. Growing to 120 feet high and 6 feet in diameter, its crown peeks above the treetops, overlooking a swath of land considered among the most ecologically diverse on earth.

While once plentiful along waterways like Los Amigos River, mahogany trees have already been stripped from riverbanks easiest to reach. Still, grizzled men looking for a payday keep coming.

Contracted and equipped by middlemen, the loggers earn about \$7 a day to sink into the jungle for up to half a year. Many come out with malaria or tropical infections. Some die from disease or accidents.

"The jungle makes you old — the heat, the worry, the work," said one logger, Pedro Rojas, who is 37 but looks decades older.

Even these small bands of loggers need trails, food and supplies. A multinational team of biologists recently estimated that in just one month loggers along Las Piedras River had killed enough animals for 90,000 pounds of meat. The team also found 231 logging camps, 176 of them in areas set aside for Indians.

Some of these native groups, hunter-gatherers from the Mashco Piro and Yora tribes, are so isolated they are known as "the noncontacted." They are particularly susceptible to influenza and other diseases.

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"For Indian people, this is a serious threat against their lives, a threat that raises the possible dangers of extinction," said Victor Pesha, president of the leading Indian federation in Madre de Dios.

Increasingly, too, loggers enter national parks like Manu, Peru's ecological jewel, the government says. This year, in the Pacaya Samiria National Reserve in the northeast, \$500,000 worth of illegally logged mahogany was confiscated.

Still, the future of an antilogging police unit that has been celebrated for recent interdictions is uncertain. In an unusual arrangement, the World Wildlife Fund pays the team's operating costs, about \$700 a month, as well as hardship bonuses.

But the financing is not guaranteed past the end of the year, and the government cannot afford the costs alone. It also lacks money to send inspectors on the waterways used to transport the timber.

That transport requires government permits, which are used by exporters to obtain a United Nations document certifying that the wood was legally logged, as mandated by an international convention.

But government officials and environmentalists say the permit system has been deeply corrupted. The documents can be obtained for a price, sometimes as low as \$120, or they can be doctored. Permits often overstate the timber available in legal areas, allowing loggers to cut from adjacent tracts that are off limits.

In just the first seven months of the year, Peru's National Institute for Natural Resources found that 14 of its 29 administrators had probably been involved in corruption, said Marco Romero, chief of the agency's forestry service.

The corruption runs so deep, he said, that even confiscated wood is often sold back to the same logging companies. "It has been legalized through the auction system," he said.

The Brazilian government tried to address similar problems by requesting the help of inspectors from the United States Department of Agriculture, who verify export documents at their end.

But Peru's government has not requested such a crackdown. Nor has it issued a moratorium on mahogany logging, as Brazil has. Without it, environmentalists warn, mahogany — exact origin unknown — will continue entering the United States.

There, it winds up in lumber yards like the 10-acre lot of a 26-year-old company in Evergreen, Ala., called South American Lumber Imports.

For the last three years, the company has been contracted exclusively to store, dry and sell wood logged by Bozovich Lumber, the largest exporter of mahogany in Peru. Last year alone, Bozovich, a Peruvian-owned company, shipped nearly \$20 million in wood to the United States, according to Peruvian export data.

The operations manager at South American Lumber Imports, Leonard W. Price III, said Bozovich's managers were "the most honest people I had ever met in South America."

On its Web site, Bozovich hails its "new selective logging techniques" that allow "for natural and spontaneous reforestation."

But Peruvian officials, the police and environmental groups say the company has generated much of Peru's illegal logging, relying on middlemen who contract freelance loggers. Its president, Drago Bozovich, did not return half a dozen calls to his Lima office seeking comment.

But Alfredo Biasevich, the company's Lima-based partner in Forestal Riopiedras, dismissed the charges. Peruvian government officials and documents identified Mr. Biasevich as an associate of Mr. Bozovich.

"We want an eternal forest; that's our business," Mr. Biasevich said. "We are conscious that each day, the mahogany is farther away, that each day it's under tighter control. We are investors, not opportunists."

Environmental groups like World Wildlife and Greenpeace have leveled similar charges at many other logging companies and importers.

Brigid Shea, spokeswoman for the International Wood Products Association, representing American importers, said the onus was on Peru. "It's really

incumbent upon them to make sure before the product leaves Peru that they're comfortable with its legality," she said.

Once in the United States, no more certification is required, and demand for the wood does not encourage scrutiny.

Ken Fuhrmann, customer service representative for Henkel Harris, said that in 30 years on the job, perhaps eight people had asked about the origins of the wood.

"I would say they don't really care," he said. "They just want a good product."

At Classic Galleries, a fine furniture store in Huntington, N.Y., the unmistakable rippled grain of mahogany gleamed on ornately carved dining tables, bureaus and headboards throughout the showroom.

But no one knew where the mahogany came from, said Barbara Marcone, a saleswoman at the store for 19 years. "Nobody asks," she said.

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the hundreds of logging camps in the region along tributaries of the Amazon River.

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Every week truckloads of farmers desperate for work leave their homes and begin the grueling journey down the eastern flanks of the Peruvian Andes to southeastern Peru, deep in the Amazon River Basin.

Their final destination, which can take up to a week to reach, is the frontier town of Puerto Maldonado in the vast region known as Madre de Dios. They arrive by the hundreds, riding on top of modified gasoline tankers. Most of the farmers who arrive in Puerto Maldonado join one of



Residents of the Alto Amazon rain forest display weapons following a encounter with uncontacted Indians in February

Photograph courtesy of Diego Sheehan, ParksWatch

About Our Invisible Indians
Gordon and Betty Foundation staff traveled to Peru last year to find more about the surrounding uncontacted Indians in the Amazon Basin and the still-protected indigenous reserves. That resulted in a five-part series for National Geographic that is being aired

March 10 on National Geographic Channel. *National Geographic Today* news program series is supplementing an expanded program *National Geographic*

The farmers are hunting for work logging mahogany and cedar trees from some of the most pristine forests left on the planet, said Enrique Ortiz, a senior program officer with the Gordon and Betty Moore Foundation in Washington, D.C.

Ortiz and colleague Doug McConnell, director of communications at the foundation's San Francisco, California headquarters, produced a five-part series currently airing on *National Geographic Today* about the issues facing the people in the region of Madre de Dios.

Eduardo Salhuna, the congressional representative for Madre de Dios told Ortiz and McConnell that the farmers are desperate when they arrive. "They move to the jungle in search of work and well being for their families," he said. "Their only alternative is to exploit the jungle's natural resources."

Bottom Loggers

"Almost 90 percent of us extract our wood, which is today mostly cedar and mahogany, on our backs and we then utilize the deltas of the rivers to take our wood back down," said Wilson Miranda, president of the Association of Small Loggers of Tambopata (APEFOT) in Madre de Dios, in an interview with Ortiz and McConnell.

The wood the loggers send down the river goes into the hands of a broker who in turn sells it to industrial timber companies who are able to sell the logs on the international market.

Conservationists estimate that for a single log extracted from the Amazon, a logger may get paid U.S. \$30. That same log, turned into doors, chairs, and coffee tables can reap U.S. \$128,000 on the open market.

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Peruvian Gover Urged to Protect Is

F Tensions are high the Peruvian A where thous desperate farmer high in the mountains have des to scratch out a liv logging Eart remaining stands of mahogany. The believed to be hc several hundred indi people who have ch live exactly ancestors did thous years ago. N presence of the logge force them into un contact and potential to their extincti

For more inform images, and a three-part video, visit the Foundation Web

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"So, they make almost no money for the hardest work," Walter Wust, a Peruvian journalist familiar with the plight of the loggers, told Ortiz and McConnell.

To survive, the loggers in the camps have taken to hunting and eating spider monkeys, one of the largest monkeys of the region and important for spreading seeds around the rainforest, said Ortiz.

"If you can imagine there are about a thousand people out there with no meat, no fresh meats," said Ortiz. "You can imagine these animals are becoming very rare, if not extinct in the area. That's one of the problems of logging."

Reserve Impact

Making a living became even more difficult for the loggers when the Peruvian government created a reserve in Madre de Dios in April 2002. The land reserve encompasses more than two million acres (810,000 hectares) to protect indigenous peoples living in isolation there.

Logging inside the reserve is now illegal and many of the loggers interviewed by Ortiz and McConnell say they have nowhere to go. They claim that a public concession opened up to loggers is not sufficient to meet their needs or the international demand for timber.

"There are more than 3,000 loggers, and in the concession system there are only 300, 400 people," an unidentified logger told Ortiz and McConnell. "Most of us are out of work. We have been loggers for 15 to 20 years, yet we are here with our arms crossed and do not know what to do."

Alan Schipper, a forestry engineer whose family has owned an industrial logging company in Puerto Maldonado for 50 years, believes that the government has locked up too much of the Amazon region in national parks and reserves, much more than the isolated peoples need to survive.

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10: New Snake Foo

Situated near the newly established reserve lies the Alto Purus Reserved Zone, a 6.7 million acre (2.7 million hectare) reserve established in 2000. Schipper believes it has ample room for the isolated peoples and the advantage of not being impacted by loggers.

"Puros reserve is an area where the natives can roam freely, so protecting an area that has been destroyed by loggers does not make sense," he told Ortiz and McConnell.

In a fit of rage and frustration Rafael Rios Lopez, a disgruntled logger, led a protest in the summer of 2002 to burn government and conservation group offices in Puerto Maldonado to demonstrate against the unfair treatment of the loggers. Fearing prosecution by the authorities, he went into hiding.

He reappeared in November 2002 and was elected governor of Madre de Dios. He is currently pressuring the government to open up the territorial reserve to logging, said Ari Hershowitz, director of the Biogems Project for Latin America at the National Resources Defense Council in Washington, D.C.

Meanwhile, Miranda's association of small loggers is trying to work out a peaceful resolution to the conflict. They have accepted the terms of the reserve and are working with indigenous and environmental groups to develop methods of sustainable logging that also protect the isolated peoples from unwanted contact.

"We will change the system of extraction of lumber. We will change so that our children, other generations, can also work, and this department still has resources then," Miranda said.

Note: National Geographic Today airs the second in a five-part series today on the plight of peoples living in isolation in the Peruvian Amazon. The series was produced by Doug McConnell and Enrique Ortiz of the Gordon and Betty Moore Foundation, which is headquartered in San Francisco, California.

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